

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
W. R. GRACE & CO., et al., <sup>1</sup>	)	Case No. 01-01139 (KG)
	)	(Jointly Administered)
Reorganized Debtors.	)	
	)	Hearing Date: October 13, 2017, at 11:00 a.m.
	)	

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**NOTICE OF STATUS HEARING TO SET PRE-TRIAL SCHEDULE FOR CLAIM NO.  
7021, FILED BY NORFOLK SOUTHERN RAILWAY, AND THE PENDING  
OBJECTION THERETO**

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The above-captioned reorganized debtors (the “Reorganized Debtors”) request the Court set a status hearing pursuant to Del. Bankr. L. R. 3007-1(i) to set a schedule for a motion for summary judgment by the Reorganized Debtors, requesting the Court to disallow claim no. 7021, filed by Norfolk Southern Railway (“Norfolk Southern”).<sup>2</sup>

On or about March 27, 2003, Norfolk Southern filed its proof of claim (the “POC”), which was designated Claim no. 7021. On July 20, 2009, the then-Debtors filed their *Objection to the Proof of Claim Filed by Norfolk Southern Railway Company* [Docket no. 22553] (the “Claim Objection”). On August 26, 2009, Norfolk Southern filed its *Preliminary Response of Norfolk Southern Railway to Debtors’ Objection to the Proof of Claim Filed by Norfolk Southern Railway* [Docket no. 22975] (the “Preliminary Response”). The matter has been continued since then.

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<sup>1</sup> The Reorganized Debtors comprise W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc., or “Grace”) and W. R. Grace & Co.-Conn. (“Grace-Conn.”), and Darex Puerto Rico, Inc.

<sup>2</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in, as the case may be, the NS POC, the Claim Objection, the Preliminary Response, or the *First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of W. R. Grace & Co., et al., the Official Committee of Asbestos Personal Injury Claimants, the Asbestos PI Future Claimants’ Representative, and the Official Committee of Equity Security Holders as Modified Through December 23, 2010* [Docket No. 26368] (as it may be amended or supplemented, the “Plan”).



On October 13, 2016, the Reorganized Debtors filed a motion for summary judgment [Docket no. 929575]. On January 28, 2017, Norfolk Southern filed a cross-motion for summary judgment [Docket no. 32825]. The Reorganized Debtors subsequently filed two evidentiary motions for consideration prior to the Court hearing the two pending summary judgment motions. On March 8, 2017, they filed their *Motion to Strike the Sharpe and Conley Declarations* [Docket no. 32837] (the “Motion to Strike”), and on March 31, 2017, they filed their *Motion for an Order Barring the Kirkland Testimony in FELA Action as Hearsay Evidence* [Docket no. 32845] (the “Motion to Bar Kirkland Testimony”).

On June 27, 2017, the Court entered its *Memorandum Order* [Docket no. 32895], denying the Motion to Strike and the Motion to Bar Kirkland Testimony for purposes of summary judgment. The Memorandum Order left open the admissibility at trial of the evidence at issue in the two motions.

On August 18, 2017, pursuant to agreement with Norfolk Southern regarding withdrawal of the parties’ respective summary judgment motions, the Reorganized Debtors filed their notice of withdrawal [Docket no. 32918]. On September 13, 2017, Norfolk Southern filed its notice of withdrawal [Docket no. 32934].

The Reorganized Debtors have proposed a pretrial schedule to Norfolk Southern (the “Pretrial Order”). The Court will conduct a status hearing on this matter at 11:00 a.m., October 13, 2017 (the “Status Hearing”). The Reorganized Debtors propose to submit the proposed Pretrial Order to the Court in advance of the Status Hearing and review and finalize the Pretrial Order at the Status Hearing if not before.

The Reorganized Debtors will continue to consult with Norfolk Southern regarding the Pretrial Order prior to the Status Hearing.



**NOTICE**

Notice of this Motion has been given to: (i) the Office of the United States Trustee; (ii) Counsel for the WRG Asbestos PI Trust; (iii) Counsel for the Asbestos PI Future Claimants Representative; (iv) Counsel for the Asbestos PD Future Claimants Representative; (v) Counsel for the WRG Asbestos PD Trust (7A); (vi) Counsel for the WRG Asbestos PD Trust (7B); (vii) Counsel for the CDN ZAI PD Claims Fund; (viii) those parties that requested service and notice of papers in accordance with Fed. R. Bankr. P. 2002; and (ix) Counsel for Norfolk Southern Railway. In light of the nature of the relief requested, the Reorganized Debtors submit that no further notice is required.

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Dated: October 4, 2017

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